

APPEAL NO. 151857
FILED NOVEMBER 23, 2015

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on August 18, 2015, in Austin, Texas, with (hearing officer) presiding as hearing officer. The hearing officer resolved the disputed issue by deciding that: (1) the compensable injury of (date of injury), extends to an L5-S1 annular fissure/tear of the posterior disc and asymmetric disc protrusion laterally left on L4-5; and (2) the compensable injury of (date of injury), does not extend to an L5-S1 disc bulge, moderate to severe central spinal stenosis at L3 on L4, mild central spinal stenosis at L2-3, and sciatica.

The appellant/cross-respondent (carrier) appealed that portion of the hearing officer's extent-of-injury determination that was favorable to the respondent/cross-appellant (claimant). The claimant cross-appealed that portion of the hearing officer's extent-of-injury determination that was not favorable to him. Both parties point out in their respective appeals that the hearing officer's discussion of the evidence references only medical reports from doctors who were not involved in the claimant's case. Further, the discussion of the evidence references conditions that were not at issue in the CCH. The appeal file does not contain a response from either the claimant or the carrier.

DECISION

Reversed and remanded.

The parties stipulated that the claimant sustained a compensable injury on (date of injury), and that (Dr. D) was appointed by the Texas Department of Insurance, Division of Workers' Compensation (Division) for the purpose of extent of injury. The single disputed issue before the hearing officer was extent of the compensable injury.

In her discussion of the evidence, the hearing officer stated the following:

Division-appointed designated doctor, [(Dr. B)] examined Claimant and determined that Claimant's compensable injury does extend to and include the disputed conditions. [(Dr. N)] also provided a causation narrative which was persuasive. Carrier-selected doctor, [(Dr. Ba)], M.D. found that the disputed conditions were not part of the compensable injury. The preponderance of the other medical evidence is not contrary to the opinion of the designated doctor that left knee acceleration of

osteoarthritis, grade II arthritic changes, and chondromalacia were caused, enhanced, accelerated, or worsened by the compensable injury.

Both parties correctly note in their appeal that none of the doctors mentioned by the hearing officer in her discussion of the evidence had medical reports in evidence. Further, the diagnoses referenced by the hearing officer were not conditions in dispute at the CCH. Based on the discussion of the evidence, the hearing officer applied her legal analysis regarding the extent of injury of the disputed conditions on inaccurate facts. Accordingly, we reverse the hearing officer's determinations that: (1) the compensable injury of (date of injury), extends to an L5-S1 annular fissure/tear of the posterior disc and asymmetric disc protrusion laterally left on L4-5; and (2) the compensable injury of (date of injury), does not extend to an L5-S1 disc bulge, moderate to severe central spinal stenosis at L3 on L4, mild central spinal stenosis at L2-3, and sciatica and we remand the extent-of-injury issue to the hearing officer for further action consistent with this decision.

On remand the hearing officer is to review the record and apply her legal analysis to the documentary evidence and testimony admitted at the CCH held on August 18, 2015. No new evidence should be admitted on remand. The hearing officer is then to make a determination of whether the compensable injury of (date of injury), extends to an aggravation of the L5-S1 disc bulge; L5-S1 annular fissure/tear of the posterior disc; asymmetric disc protrusion laterally left on L4-5; moderate to severe central spinal stenosis at L3 on L4; mild central spinal stenosis at L2-3; and sciatica based on the evidence in the record.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new decision is received from the Division, pursuant to Section 410.202, which was amended June 17, 2001, to exclude Saturdays and Sundays and holidays listed in Section 662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods. See Appeals Panel Decision 060721, decided June 12, 2006.

The true corporate name of the insurance carrier is **LIBERTY INSURANCE CORPORATION** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
211 EAST 7TH STREET, SUITE 620
AUSTIN, TEXAS 78701-3218.**

Margaret L. Turner
Appeals Judge

CONCUR:

Veronica L. Ruberto
Appeals Judge

Carisa Space-Beam
Appeals Judge